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VOLUME I

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF MARYLAND

JAWONE D. NICHOLSON

Plaintiff

vs. Case No.:

STATE OF MARYLAND, et al. 1:20-cv-03146 DKC

Defendants

_____ /

VOLUME I

The deposition of DAMOND DURANT was held

remotely via Zoom videoconference on Friday, June 24,

2022, commencing at 11:03 a.m., before Susan M.

Liebrecht, Notary Public.

STENOGRAPHICALLY REPORTED BY:

Susan M. Liebrecht, RPR

Exhibit 2a

Page 30	Page 32
<p>1 Q Okay. All right. The gun that you pulled</p> <p>2 on Jawone Nicholson in this case, was that a duty</p> <p>3 weapon or a personally owned gun?</p> <p>4 MR. GOLDBERG: Objection to form. You can</p> <p>5 answer.</p> <p>6 A It is a personal gun that I got permission</p> <p>7 to use from the Department. Permission to carry from</p> <p>8 the Department.</p> <p>9 Q What type of gun is it?</p> <p>10 MR. GOLDBERG: Objection. Form,</p> <p>11 foundation. You can answer.</p> <p>12 A It's a Glock 43.</p> <p>13 Q Okay. What caliber is it?</p> <p>14 MR. GOLDBERG: Same objection.</p> <p>15 A 9 millimeter.</p> <p>16 Q At the time you drew the gun on Jawone</p> <p>17 Nicholson, it was loaded?</p> <p>18 MR. GOLDBERG: Objection. You can answer.</p> <p>19 A Yes.</p> <p>20 Q There was a round in the chamber?</p> <p>21 MR. GOLDBERG: Same objection, but you can</p>	<p>1 I'm asking, have you ever heard the saying, you never</p> <p>2 point a gun at --</p> <p>3 A Yeah.</p> <p>4 Q You have heard it?</p> <p>5 MR. GOLDBERG: Same objection, though.</p> <p>6 A Yes, I've heard it.</p> <p>7 Q And you have heard it in the firearms</p> <p>8 safety training context. Is that right?</p> <p>9 MR. GOLDBERG: Objection. Form,</p> <p>10 foundation. You can answer.</p> <p>11 A Mostly on TV.</p> <p>12 Q Okay. And were you prepared to kill Jawone</p> <p>13 Nicholson that day? To fire your gun at him?</p> <p>14 MR. GOLDBERG: Objection. Form,</p> <p>15 foundation. You can answer.</p> <p>16 A No.</p> <p>17 Q Why did you point your gun at him?</p> <p>18 MR. GOLDBERG: Objection. Form,</p> <p>19 foundation. You can answer.</p> <p>20 A I didn't point the gun at him.</p> <p>21 Q You admit to me that you removed your gun</p>
Page 31	Page 33
<p>1 answer.</p> <p>2 A Yes.</p> <p>3 Q So the gun was ready to fire?</p> <p>4 MR. GOLDBERG: Objection. You can answer.</p> <p>5 A Yes.</p> <p>6 Q I always learned the rule that you never</p> <p>7 point a gun at anyone you're not willing to kill.</p> <p>8 Are you familiar with that rule? Have you</p> <p>9 heard that?</p> <p>10 MR. GOLDBERG: Objection. Form, relevance.</p> <p>11 You can answer.</p> <p>12 A I don't think that's written anywhere, sir.</p> <p>13 I'm sorry.</p> <p>14 Q I didn't ask you if it was written</p> <p>15 anywhere. Have you ever heard that?</p> <p>16 MR. GOLDBERG: Same objection. You can</p> <p>17 answer.</p> <p>18 MR. HANSEL: Have you ever heard that</p> <p>19 saying?</p> <p>20 A It's not a belief of mine.</p> <p>21 Q I'm not asking about your beliefs, sir.</p>	<p>1 and had it out. Is that right?</p> <p>2 MR. GOLDBERG: Objection to form, but you</p> <p>3 can answer.</p> <p>4 A Yes.</p> <p>5 Q You had it out in a location where Jawone</p> <p>6 Nicholson could see it. Is that right?</p> <p>7 A Yes.</p> <p>8 Q Okay. What was your purpose in -- and</p> <p>9 where was it before you removed it to where he could</p> <p>10 see it? Where did you have it on your body?</p> <p>11 MR. GOLDBERG: Objection. Form, compound,</p> <p>12 you can answer.</p> <p>13 A In a holster.</p> <p>14 Q And where was the holster, sir?</p> <p>15 A In a pocket.</p> <p>16 Q And describe your dress that day. What</p> <p>17 were you wearing?</p> <p>18 MR. GOLDBERG: Objection. Form,</p> <p>19 foundation. And we haven't established the date that</p> <p>20 we're talking about, Cary, but you can answer.</p> <p>21 A A hoodie and some jeans.</p>

<p style="text-align: right;">Page 34</p> <p>1 Q Had you pulled your gun on minors on more</p> <p>2 than one date in Baltimore?</p> <p>3 MR. GOLDBERG: Objection. Form,</p> <p>4 foundation, relevancy. You can answer.</p> <p>5 A No.</p> <p>6 Q Okay. So you know we're talking about the</p> <p>7 day you pulled your gun on Jawone Nicholson, right?</p> <p>8 MR. GOLDBERG: Objection. Form. You can</p> <p>9 answer.</p> <p>10 A I thought you were saying other than that.</p> <p>11 Q Right. I was in the last question, but for</p> <p>12 the time that we have been speaking here, the majority</p> <p>13 of the time, you recognize we're talking about your</p> <p>14 interaction with Jawone Nicholson, right? I'm just</p> <p>15 making sure.</p> <p>16 MR. GOLDBERG: Objection to form. You can</p> <p>17 answer.</p> <p>18 A Yes.</p> <p>19 Q Do you recall the date on which that</p> <p>20 interaction occurred?</p> <p>21 A I don't remember the date. I remember</p>	<p style="text-align: right;">Page 36</p> <p>1 Q And just for purposes of the record, a</p> <p>2 pocket style holster is one that is actually meant to</p> <p>3 be carried in a pocket, usually has a grippy surface to</p> <p>4 grab the inside of the pocket as you withdraw the</p> <p>5 firearm and typically doesn't have mechanisms to attach</p> <p>6 it to a belt because it's supposed to live in a pocket.</p> <p>7 Is that roughly right? Is that what you</p> <p>8 think of as a pocket holster?</p> <p>9 A Yes.</p> <p>10 Q Okay. And on the day that you drew your</p> <p>11 gun on Mr. Nicholson, you say you didn't point it at</p> <p>12 him. Where was the muzzle pointed?</p> <p>13 MR. GOLDBERG: Objection. Form.</p> <p>14 Mischaracterizes testimony, but you can answer.</p> <p>15 Q Well, wait. Your lawyer thinks I got that</p> <p>16 wrong. Did you point the gun at Mr. Nicholson?</p> <p>17 MR. GOLDBERG: Objection to form. Asked</p> <p>18 and answered, but you can answer.</p> <p>19 A No.</p> <p>20 Q Where did you point the gun?</p> <p>21 A At the ground behind me.</p>
<p style="text-align: right;">Page 35</p> <p>1 when, but I don't remember the exact date.</p> <p>2 Q What time of year was it?</p> <p>3 A Winter. It was cold.</p> <p>4 Q It was cold outside?</p> <p>5 A Yeah.</p> <p>6 Q Okay. And you said you withdrew your gun</p> <p>7 from a holster in your product. They call it a</p> <p>8 kangaroo pocket, the one in front of a hoodie. Was it</p> <p>9 from that pocket or another pocket that you drew the</p> <p>10 gun?</p> <p>11 MR. GOLDBERG: Objection to form. You can</p> <p>12 answer.</p> <p>13 A Hoodie pocket.</p> <p>14 Q And you had a holster in a hoodie pocket.</p> <p>15 Is that right?</p> <p>16 A Yes.</p> <p>17 Q And was it a pocket style holster? Do you</p> <p>18 know what I mean by that, first?</p> <p>19 A Yes.</p> <p>20 Q And was it a pocket style holster?</p> <p>21 A Yes.</p>	<p style="text-align: right;">Page 37</p> <p>1 Q At the ground where?</p> <p>2 A Behind me.</p> <p>3 Q Okay. And why did you point the gun at the</p> <p>4 ground behind you?</p> <p>5 A To de-escalate the situation.</p> <p>6 Q Okay. Is it your experience that the</p> <p>7 introduction of a firearm is a good way to de-escalate</p> <p>8 a situation?</p> <p>9 MR. GOLDBERG: Objection. Form,</p> <p>10 foundation, but you can answer.</p> <p>11 A It did.</p> <p>12 Q I'm asking you about your experience. Is</p> <p>13 your experience that drawing a firearm is a good way to</p> <p>14 de-escalate a situation?</p> <p>15 MR. GOLDBERG: Objection. Form, but you</p> <p>16 can answer.</p> <p>17 A De-escalation is the outcome of a</p> <p>18 situation. There are techniques to use to de-escalate.</p> <p>19 Q Has Baltimore City ever trained you that</p> <p>20 one de-escalation technique is to draw a firearm?</p> <p>21 MR. GOLDBERG: Objection. Form. You can</p>

<p style="text-align: right;">Page 38</p> <p>1 answer.</p> <p>2 A They teach us to draw our firearms.</p> <p>3 Q So that's not what I asked. Has Baltimore</p> <p>4 ever taught you that drawing a firearm is a</p> <p>5 de-escalation technique?</p> <p>6 MR. GOLDBERG: Objection to form, but you</p> <p>7 can answer.</p> <p>8 A It's a tool.</p> <p>9 Q Again, not what I asked. I'm not asking is</p> <p>10 it a tool or if they thought you. I'm asking, has</p> <p>11 Baltimore City ever trained you that drawing a firearm</p> <p>12 is a de-escalation technique?</p> <p>13 MR. GOLDBERG: Objection to form, but you</p> <p>14 can answer.</p> <p>15 A I want to say, yes, but it's not the --</p> <p>16 it's a tool to use to de-escalate.</p> <p>17 Q Okay. So you have been trained by</p> <p>18 Baltimore City that, among other potential tools, that</p> <p>19 drawing a firearm is a tool to de-escalate a situation.</p> <p>20 Is that right?</p> <p>21 MR. GOLDBERG: Objection. Form, asked and</p>	<p style="text-align: right;">Page 40</p> <p>1 Q Okay. And what firearm were you training</p> <p>2 with?</p> <p>3 MR. GOLDBERG: Objection. Form,</p> <p>4 foundation. You can answer.</p> <p>5 A My service and off-duty.</p> <p>6 Q Okay. And your off-duty is the Glock that</p> <p>7 you brandished in Mr. Nicholson's presence. Is that</p> <p>8 right?</p> <p>9 MR. GOLDBERG: Objection. Form. You can</p> <p>10 answer.</p> <p>11 A Yes.</p> <p>12 Q When you parked were you in a marked police</p> <p>13 car?</p> <p>14 A No.</p> <p>15 Q At the time of this incident how were you</p> <p>16 assigned? Were you on patrol or some other assignment?</p> <p>17 A I think I was in CIT unit, so a specialized</p> <p>18 unit.</p> <p>19 Q And what does CIT stand for?</p> <p>20 A Crisis Intervention Team or Crisis Response</p> <p>21 Team.</p>
<p style="text-align: right;">Page 39</p> <p>1 answered, but you can answer.</p> <p>2 A Yes.</p> <p>3 Q Prior to -- let's talk about the day this</p> <p>4 happened. What were you doing that day?</p> <p>5 A Coming home from work.</p> <p>6 Q And where were you when you first became</p> <p>7 aware of Mr. Nicholson or anybody associated with him</p> <p>8 that day?</p> <p>9 A In my vehicle parking.</p> <p>10 Q Where were you parking?</p> <p>11 A On the street.</p> <p>12 Q What street?</p> <p>13 A What's that street? What's that street?</p> <p>14 Bellfall. Right on Bellfall.</p> <p>15 Q And you were -- you had been at work. How</p> <p>16 long had your shift been that day?</p> <p>17 MR. GOLDBERG: Objection. You can answer.</p> <p>18 A I don't think it was a full day because I</p> <p>19 had training. I was training.</p> <p>20 Q And what training were you attending?</p> <p>21 A Firearms training.</p>	<p style="text-align: right;">Page 41</p> <p>1 Q And what does that mean? What do you do in</p> <p>2 CIT?</p> <p>3 A Respond to what we call behavioral crisis.</p> <p>4 Q Give me an example of a behavioral crisis.</p> <p>5 A Mentally ill person having a breakdown,</p> <p>6 psychotic breakdown.</p> <p>7 Q Okay.</p> <p>8 A Or -- yeah. We find them help, get them</p> <p>9 help, take them to the hospital so they can get</p> <p>10 evaluated.</p> <p>11 Q And when you were coming home, I think you</p> <p>12 said you were in a personal vehicle. Is that right?</p> <p>13 A Yes.</p> <p>14 Q Is there any indicator on the outside of</p> <p>15 the vehicle that you're a police officer?</p> <p>16 A No.</p> <p>17 Q Did any of your clothes indicate that you</p> <p>18 were a police officer?</p> <p>19 A No.</p> <p>20 Q Did you have a visible badge as you got out</p> <p>21 of the car?</p>

<p>Page 42</p> <p>1 A Well, I had my badge on me, but.</p> <p>2 Q Visible, sir. I said visible.</p> <p>3 A No.</p> <p>4 Q So you said as you were parking is when you</p> <p>5 first saw Mr. Nicholson. Tell me what you saw.</p> <p>6 A Him in the curtilage, in the parking pad,</p> <p>7 of a neighbor, him and the other gentleman, looking</p> <p>8 around suspiciously. Just looking back and forth,</p> <p>9 looking at me.</p> <p>10 Not Mr. Nicholson, but the other guy, he</p> <p>11 came from around, I guess, the parking pads and he was</p> <p>12 masked up, like, all you could see was his eyes and he</p> <p>13 had a hoodie on, come from around to see what I was</p> <p>14 doing. Then he looked at me, then looked back at</p> <p>15 Mr. Nicholson, looked at me, and then came back to the</p> <p>16 parking spot.</p> <p>17 Q Okay. These two people that you saw, I'm</p> <p>18 looking at you here on this screen, but for purpose of</p> <p>19 the record, you're a strong guy, a large guy. Is that</p> <p>20 fair?</p> <p>21 A I mean, I try to keep in shape, but I don't</p>	<p>Page 44</p> <p>1 Q Wow, okay. So you have trained with</p> <p>2 weights for years to get to that level. Is that right?</p> <p>3 MR. GOLDBERG: Objection. Form. You can</p> <p>4 answer.</p> <p>5 A Yes.</p> <p>6 Q Okay. How long have you been training with</p> <p>7 weights? Since high school or before?</p> <p>8 MR. GOLDBERG: Same objection.</p> <p>9 A I mean, staying in shape, pushups and stuff</p> <p>10 like that.</p> <p>11 Q Sure.</p> <p>12 A You play sports when you're young. So,</p> <p>13 yeah, I guess.</p> <p>14 Q All right. And in high school what sports</p> <p>15 did you play?</p> <p>16 A I didn't play for high school. I played</p> <p>17 recreation.</p> <p>18 MR. HANSEL: Okay.</p> <p>19 MR. GOLDBERG: Counsel, I'm sorry to</p> <p>20 interrupt your questioning. I really don't want to</p> <p>21 interrupt. Can we go off the record just for a second?</p>
<p>Page 43</p> <p>1 really call myself large. I'm not --</p> <p>2 Q No, but you look like a well-muscled guy.</p> <p>3 Do you work out? Let me ask it that way. Do you lift</p> <p>4 weights?</p> <p>5 MR. GOLDBERG: Objection. Relevance, but</p> <p>6 you can answer.</p> <p>7 A Yes.</p> <p>8 Q Okay. And did you lift weights at the</p> <p>9 time?</p> <p>10 MR. GOLDBERG: Objection. Relevance, you</p> <p>11 can answer.</p> <p>12 A Yes.</p> <p>13 Q All right. And what do you max on the</p> <p>14 bench these days? Bench press?</p> <p>15 MR. GOLDBERG: Same objection.</p> <p>16 A I'm not sure. I haven't done a max in a</p> <p>17 while.</p> <p>18 Q The last time you maxed out, what was it?</p> <p>19 A That was years ago, maybe 315.</p> <p>20 Q 315? Is that what you said? 3?</p> <p>21 A Yes.</p>	<p>Page 45</p> <p>1 MR. HANSEL: Sure, yeah. We're off, Sue.</p> <p>2 (A discussion was held off the record.)</p> <p>3 (There was a brief recess taken.)</p> <p>4 BY MR. HANSEL:</p> <p>5 Q We were talking about your physique.</p> <p>6 At the time what did you weigh?</p> <p>7 MR. GOLDBERG: Objection. Relevancy, but</p> <p>8 you can answer.</p> <p>9 A I don't remember at that precise moment.</p> <p>10 About 200 pounds.</p> <p>11 Q Okay. And what do you weigh today? About</p> <p>12 the same? A little more or a little less?</p> <p>13 A I'm a little chubby, now.</p> <p>14 Q Time gets us all. I should have asked you</p> <p>15 this earlier. How old a man are you today?</p> <p>16 A 50.</p> <p>17 Q And when is your date of birth?</p> <p>18 A 2/22/72.</p> <p>19 Q Did you say 2/22?</p> <p>20 A Yes, sir.</p> <p>21 Q Okay, good. And these two young men you</p>

<p style="text-align: right;">Page 46</p> <p>1 saw as you were parking, they were substantially</p> <p>2 smaller than you. Is that right? You were there at</p> <p>3 200 pounds, these were thin, young men?</p> <p>4 MR. GOLDBERG: Objection. Form and</p> <p>5 foundation, but you can answer.</p> <p>6 A No, sir. Not at all.</p> <p>7 Q Okay. Did they look muscular to you?</p> <p>8 A They were bigger than me.</p> <p>9 Q Bigger than you. You mean taller?</p> <p>10 A Bigger and taller.</p> <p>11 Q Okay. You think they weighed more than</p> <p>12 200 pounds each?</p> <p>13 A Mr. Nicholson, probably more.</p> <p>14 Q So you pulled in. Were you intimidated by</p> <p>15 their size?</p> <p>16 A Intimidated?</p> <p>17 Q Yes, afraid?</p> <p>18 A They were bigger than me, so I was</p> <p>19 cautious, yes.</p> <p>20 Q No, no. Were you afraid or intimidated</p> <p>21 because of the size of these two boys?</p>	<p style="text-align: right;">Page 48</p> <p>1 A The neighbor's property in the parking.</p> <p>2 Q What's name of the neighbor?</p> <p>3 MR. GOLDBERG: Objection to form, but you</p> <p>4 can answer.</p> <p>5 A Mark.</p> <p>6 Q I'm sorry, what's his name?</p> <p>7 A I think it's Mark.</p> <p>8 Q And after you pulled in, you saw these</p> <p>9 people on an empty parking pad that you think belongs</p> <p>10 to Mark. Is that right?</p> <p>11 MR. GOLDBERG: Objection. Form,</p> <p>12 foundation. You can answer.</p> <p>13 A No, there was a car in the parking pad they</p> <p>14 was in.</p> <p>15 Q Okay. And how did you determine that they</p> <p>16 didn't have Mark's permission to be there?</p> <p>17 MR. GOLDBERG: Objection. Form,</p> <p>18 foundation. You can answer.</p> <p>19 A I didn't know. I just asked.</p> <p>20 Q Who did you ask?</p> <p>21 A Them.</p>
<p style="text-align: right;">Page 47</p> <p>1 A Yes.</p> <p>2 Q Okay. Now, as you were pulling in, you</p> <p>3 haven't described any crimes they were engaged in. Did</p> <p>4 you see them engaged in any crimes?</p> <p>5 A Not at that time.</p> <p>6 Q You haven't described any violence that</p> <p>7 they were engaged in. Did you see them engaged in any</p> <p>8 violence?</p> <p>9 A Sitting in my truck?</p> <p>10 Q Sure, as you pulled in, you said.</p> <p>11 A Well, when I pulled in, I just seen their</p> <p>12 heads.</p> <p>13 Q Okay. So you didn't see them engaged in</p> <p>14 any violence or crimes when you pulled in, right?</p> <p>15 A No.</p> <p>16 Q In the entire event did you ever see</p> <p>17 Mr. Nicholson engaged in any crime?</p> <p>18 MR. GOLDBERG: Objection. Form. Calls for</p> <p>19 a legal conclusion, but you can answer.</p> <p>20 A Just the trespassing.</p> <p>21 Q Where was he trespassing?</p>	<p style="text-align: right;">Page 49</p> <p>1 Q Okay. You said, do you have Mark's</p> <p>2 permission to be on that parking pad? Is that what you</p> <p>3 said?</p> <p>4 A No. I asked them --</p> <p>5 Q Okay. Go ahead.</p> <p>6 A I asked them did they live in the</p> <p>7 neighborhood.</p> <p>8 Q Okay. Were there any No Trespassing signs</p> <p>9 on the parking pad?</p> <p>10 A Not that I remember.</p> <p>11 Q You understand that to be trespassing under</p> <p>12 Maryland law on across what are called open fields like</p> <p>13 that, not in somebody's house, but in an area like</p> <p>14 that, there either has to be a sign or they have to</p> <p>15 have been told not to be there. You know that, right?</p> <p>16 MR. GOLDBERG: Objection. Form,</p> <p>17 foundation. Calls for a legal conclusion, but you can</p> <p>18 answer.</p> <p>19 A I thought that would be curtilage. That's</p> <p>20 the property of the owner of the house.</p> <p>21 Q And do you understand that there had to be</p>

<p>Page 58</p> <p>1 standing to his front door?</p> <p>2 A About. About.</p> <p>3 Q Have you ever looked at it on Google Maps</p> <p>4 at how close it is?</p> <p>5 A No.</p> <p>6 Q All right. And what's the name of the</p> <p>7 neighborhood there?</p> <p>8 A It's Bellfall Court. I don't know.</p> <p>9 Q You don't know that the neighborhood has a</p> <p>10 name or the development has a name?</p> <p>11 A I know it has a name. I just don't</p> <p>12 remember.</p> <p>13 Q Whatever the name is, it's the same</p> <p>14 neighborhood or development that Mr. Nicholson lived in</p> <p>15 at the time and where this parking pad where you</p> <p>16 observed him, right?</p> <p>17 A Is it? It's the same?</p> <p>18 Q I'm asking you, sir. I'm asking you.</p> <p>19 A It's not the same neighborhood, the</p> <p>20 location of houses. He lives down the street. Toward</p> <p>21 the beginning of the, I guess, the area.</p>	<p>Page 60</p> <p>1 A Yes, yes.</p> <p>2 Q And a parking pad like this one, was it</p> <p>3 covered? Did it have a roof?</p> <p>4 A Yes.</p> <p>5 Q And does it have walls on any side of it or</p> <p>6 close to it?</p> <p>7 A Yes.</p> <p>8 Q Okay. So two young men who were waiting</p> <p>9 there in cold from the temperature and the wind might</p> <p>10 reasonably escape the wind by stepping under the roof</p> <p>11 and next to those walls, right?</p> <p>12 A Could be, yeah.</p> <p>13 Q All right. So you pulled up, you said you</p> <p>14 were scared and intimidated.</p> <p>15 Was your gun in your hoodie when you pulled</p> <p>16 up or did you have to place it there? Where was it</p> <p>17 while you were driving?</p> <p>18 A In my hoodie.</p> <p>19 Q Okay. And had your gun been in your hoodie</p> <p>20 since you left Baltimore City and into the County?</p> <p>21 A Yes, in my pocket in the holster.</p>
<p>Page 59</p> <p>1 Q Is it the same development? You said the</p> <p>2 development has a name, you can't remember the name of</p> <p>3 the development. It's the same development he lives</p> <p>4 in, right?</p> <p>5 A It could be.</p> <p>6 Q Not it could be. You're aware that it is,</p> <p>7 aren't you?</p> <p>8 MR. GOLDBERG: Objection. Form. You can</p> <p>9 answer.</p> <p>10 A I guess it is, yes.</p> <p>11 Q Was there any precipitation that day?</p> <p>12 A I don't remember that.</p> <p>13 Q Was it windy?</p> <p>14 A I know it was cold.</p> <p>15 Q You don't remember whether it was windy?</p> <p>16 Is that what you said?</p> <p>17 A No, I don't remember rain. You said</p> <p>18 precipitation. I don't remember rain. I remember it</p> <p>19 being cold.</p> <p>20 Q What about wind? Do you remember it being</p> <p>21 windy?</p>	<p>Page 61</p> <p>1 Q And it was loaded the whole time and ready</p> <p>2 to fire. Is that right?</p> <p>3 A Yes.</p> <p>4 Q So you observed these two men. You said</p> <p>5 you were scared and intimidated.</p> <p>6 What was your plan as you got out of your</p> <p>7 vehicle?</p> <p>8 A I guess to check to see if my property and</p> <p>9 my parking pad was okay.</p> <p>10 Q Okay. Now you mentioned parking on the</p> <p>11 street. Do you have another car that was in your</p> <p>12 parking pad?</p> <p>13 A Yes.</p> <p>14 Q And you mentioned you were in a truck.</p> <p>15 What's the make and model of the truck?</p> <p>16 A RAM 1500.</p> <p>17 Q Okay. And what year was it?</p> <p>18 A '15.</p> <p>19 Q Okay. And what was the other vehicle that</p> <p>20 you had?</p> <p>21 A Ford Escape.</p>

<p style="text-align: right;">Page 62</p> <p>1 Q And did you have anything else in your</p> <p>2 parking pad besides the Ford Escape?</p> <p>3 A Motorcycle.</p> <p>4 Q Okay. Anything else?</p> <p>5 A Not vehicle wise, no.</p> <p>6 Q Anything else at all?</p> <p>7 A Could be like a little bucket, like a</p> <p>8 little bin with debris in there, trash or something in</p> <p>9 there.</p> <p>10 Q Okay. Anything else?</p> <p>11 A Or a stopper. Like a little piece of wood</p> <p>12 so I know how far to go.</p> <p>13 Q Okay. Anything else?</p> <p>14 A Not that I remember.</p> <p>15 Q And did you proceed to check on your pad or</p> <p>16 did you approach the young men?</p> <p>17 A No, I went straight to the car.</p> <p>18 Q When you say the car, you went straight to</p> <p>19 the Escape and the motorcycle and the pad there. Is</p> <p>20 that right?</p> <p>21 A Yes.</p>	<p style="text-align: right;">Page 64</p> <p>1 pad or in their parking pads on the exterior on their</p> <p>2 buildings that might have caught anything in connection</p> <p>3 with this case?</p> <p>4 A Not that I'm aware of, no.</p> <p>5 Q So you checked your property, everything</p> <p>6 was fine. Tell me what you did next.</p> <p>7 A Walked up to them to speak to them.</p> <p>8 Q Okay. And why did you do that instead of</p> <p>9 going on about your business?</p> <p>10 A It's not a hangout spot where people</p> <p>11 normally hang out and I've never seen them before,</p> <p>12 ever. I guess I caught myself trying to keep them out</p> <p>13 of trouble.</p> <p>14 Q Oh, you were going to help the boys. Is</p> <p>15 that right?</p> <p>16 A That's what I caught myself doing.</p> <p>17 Q Is that what you were thinking when you</p> <p>18 pull out your gun? You would pull out your gun to help</p> <p>19 him?</p> <p>20 A No, I pulled out my gun to stop them from</p> <p>21 attacking me.</p>
<p style="text-align: right;">Page 63</p> <p>1 Q And what you observed when you got to your</p> <p>2 property was that everything was fine?</p> <p>3 MR. GOLDBERG: Objection. Form. You can</p> <p>4 answer.</p> <p>5 A Yes.</p> <p>6 Q Okay. So you said your intent was to check</p> <p>7 your property. You checked it. You determined</p> <p>8 everything was fine. So did you just go on in your</p> <p>9 house?</p> <p>10 MR. GOLDBERG: Objection. Asked and</p> <p>11 answered. You can answer.</p> <p>12 A No.</p> <p>13 Q At the time did you have any external</p> <p>14 video, like a Ring doorbell or anything like that?</p> <p>15 A No.</p> <p>16 Q Okay. There is no camera or video in your</p> <p>17 parking pad or on the exterior of your house or</p> <p>18 building?</p> <p>19 A Not mine, no.</p> <p>20 Q Did your neighbors have any cameras that</p> <p>21 you're aware of that captured anything in your parking</p>	<p style="text-align: right;">Page 65</p> <p>1 Q Oh. Now, do you have any particular</p> <p>2 ability to read minds? Are you a mind reader or a</p> <p>3 hypnotist or anything like that?</p> <p>4 MR. GOLDBERG: Objection. Form. And</p> <p>5 that's rather argumentative, but I'll have him answer</p> <p>6 that question.</p> <p>7 THE WITNESS: I actually deposed a guy once</p> <p>8 who told me he could read minds, so now I ask.</p> <p>9 MR. GOLDBERG: I'll allow him to answer.</p> <p>10 A I don't have that ability.</p> <p>11 Q Okay. I didn't think so. And I actually</p> <p>12 had a guy tell me he could once.</p> <p>13 So not being able to read minds, tell me</p> <p>14 how it was that you determined before pulling your gun</p> <p>15 that these men were going to attack you?</p> <p>16 A Well, because I had turned and walked away</p> <p>17 from them and they were coming up behind me.</p> <p>18 Q Anything else?</p> <p>19 A That's motion to attack me.</p> <p>20 Q Wait, wait. I'm asking you how you know</p> <p>21 they were going to attack you. You said you turned and</p>

<p style="text-align: right;">Page 78</p> <p>1 Q And you have already described it was</p> <p>2 really cold and you agree with me it's not an</p> <p>3 unreasonable reaction for somebody that doesn't have a</p> <p>4 nicer hat to pull a hoodie really tight around his head</p> <p>5 to keep warm if it's really cold and windy, right?</p> <p>6 A Yeah.</p> <p>7 Q And you mentioned school was out. What</p> <p>8 time of day was it?</p> <p>9 A This was, like, 11, 12:00. It wasn't</p> <p>10 normal school hours. This was before school had let</p> <p>11 out, so, like, 11, 12; 11, 12. 11, 12, maybe 1:00.</p> <p>12 Q Is it fair to say you're not quite certain</p> <p>13 of the time?</p> <p>14 A Yeah.</p> <p>15 Q That's fine. And would you rely on police</p> <p>16 reports and other records for the time, if need be?</p> <p>17 A Yeah, if they have the time, yeah.</p> <p>18 Q All right. But you mentioned school being</p> <p>19 out. It was part of your consideration when you were</p> <p>20 looking at these two young men, you recognized them as</p> <p>21 being school aged people, right?</p>	<p style="text-align: right;">Page 80</p> <p>1 answered, but you can answer.</p> <p>2 A Yes.</p> <p>3 Q Okay. So when you approached them you</p> <p>4 moved towards them, right?</p> <p>5 A That's the question?</p> <p>6 Q It is.</p> <p>7 A Yeah, I walked towards them, yes.</p> <p>8 Q And how close did you get to them before</p> <p>9 you stopped?</p> <p>10 A I don't know. I don't remember that.</p> <p>11 Q And you said you were scared and</p> <p>12 intimidated. Did you have your hand in your hoodie</p> <p>13 pocket?</p> <p>14 A No, I think I was holding my bag.</p> <p>15 Q Well, you have two hands. Did you have</p> <p>16 them both holding your bag?</p> <p>17 A Yeah.</p> <p>18 Q So you had a shoulder strap, your hands</p> <p>19 were up on the shoulder strap of the bag. Is that</p> <p>20 right?</p> <p>21 A It was like a trash bag, so.</p>
<p style="text-align: right;">Page 79</p> <p>1 MR. GOLDBERG: Objection. Form. Compound.</p> <p>2 You can answer.</p> <p>3 A Not until I approached them.</p> <p>4 Q But once you approached you could tell</p> <p>5 these were minors, right?</p> <p>6 MR. GOLDBERG: Objection. Form. Asked and</p> <p>7 answered. You can answer.</p> <p>8 A Younger than me, yes.</p> <p>9 Q Well, not just younger than you. Sir, I'm</p> <p>10 younger than you and I've been a lawyer for 25 years.</p> <p>11 I'm asking, you could recognize these were children,</p> <p>12 minors, right? Once you approached them.</p> <p>13 MR. GOLDBERG: Objection. Form. Asked and</p> <p>14 answered. You can answer.</p> <p>15 A When they started talking, yes.</p> <p>16 Q Okay. And certainly it's the case, you and</p> <p>17 I are men, we have been through this, a young man has a</p> <p>18 change of voice at some point in his life and you could</p> <p>19 tell from their voice and inflection that these were</p> <p>20 young folks, minors. Is that right?</p> <p>21 MR. GOLDBERG: Objection. Form. Asked and</p>	<p style="text-align: right;">Page 81</p> <p>1 Q Oh, I see, all right. So you checked your</p> <p>2 property, you walked towards them. You're a guy in</p> <p>3 jeans and a black hoodie carrying a trash bag full of</p> <p>4 what was probably reasonably heavy items. Is that</p> <p>5 right?</p> <p>6 A Yes.</p> <p>7 Q Okay. And a visual observer would have</p> <p>8 seen on your pocket that same or similar clip from a</p> <p>9 knife, if you had it with you, that the young man had.</p> <p>10 The same way you saw his, if you had your knife with</p> <p>11 you, he would have seen yours. Is that right?</p> <p>12 MR. GOLDBERG: Objection to form. Calls</p> <p>13 for speculation. You can answer.</p> <p>14 Q That's fair. The same way his was visible,</p> <p>15 yours would have been visible if you had it with you.</p> <p>16 Is that fair?</p> <p>17 MR. GOLDBERG: Objection to form, but you</p> <p>18 can answer.</p> <p>19 A Yes. If I had it on me, yes.</p> <p>20 Q And that's because the way you carry it, is</p> <p>21 that little clip holds the knife at the ready in your</p>

<p style="text-align: right;">Page 82</p> <p>1 pocket and the clip is visible exterior. It's on the</p> <p>2 outside of the pocket, right?</p> <p>3 MR. GOLDBERG: Objection. Form,</p> <p>4 foundation. You can answer.</p> <p>5 A Yeah, it's clipped on the pocket.</p> <p>6 Q So when you approached these two young men,</p> <p>7 you're a guy carrying a trash bag, it's full of</p> <p>8 relatively heavy stuff, more likely than not they see a</p> <p>9 knife, and you're otherwise in a black hoodie.</p> <p>10 Do I have all that right?</p> <p>11 MR. GOLDBERG: Objection. Form. You can</p> <p>12 answer. You can answer.</p> <p>13 A Repeat that? I'm sorry.</p> <p>14 Q Sure. I'm trying to draw the picture of</p> <p>15 what these young men might have seen as you approached.</p> <p>16 I'm seeing you, you're a relatively muscled</p> <p>17 guy, right? Right?</p> <p>18 A Yes.</p> <p>19 Q You weigh 200 pounds, right?</p> <p>20 A Yes.</p> <p>21 Q You're wearing a black hoodie, right?</p>	<p style="text-align: right;">Page 84</p> <p>1 hoodie, you have no badge showing and you're carrying a</p> <p>2 relatively heavy black trash bag.</p> <p>3 Have I drawn the picture? Is that what</p> <p>4 they see?</p> <p>5 A Yeah.</p> <p>6 Q When you get to them you realize, of</p> <p>7 course, that they're minors, right?</p> <p>8 A Yeah, once the conversation started.</p> <p>9 Q To your knowledge, had you ever seen them</p> <p>10 before?</p> <p>11 A No.</p> <p>12 Q So likely they'd never seen you before.</p> <p>13 Fair assumption, right?</p> <p>14 MR. GOLDBERG: Objection to form.</p> <p>15 A Yes.</p> <p>16 Q So from their perspective we're adding in,</p> <p>17 they have never seen you before likely.</p> <p>18 And tell me under these circumstances</p> <p>19 what's the first thing you do or say when you stop</p> <p>20 walking towards them?</p> <p>21 A What do I do?</p>
<p style="text-align: right;">Page 83</p> <p>1 A Yes.</p> <p>2 Q All right. More likely than not you have a</p> <p>3 visible knife with you, right?</p> <p>4 MR. GOLDBERG: Objection. Mischaracterizes</p> <p>5 his testimony.</p> <p>6 MR. HANSEL: You said probably earlier.</p> <p>7 More likely than not. Is that fair?</p> <p>8 MR. GOLDBERG: I think he testified that it</p> <p>9 was a possibility. I don't think he said probable.</p> <p>10 MR. HANSEL: I think he said both at</p> <p>11 different points, but the record will reflect that.</p> <p>12 BY MR. HANSEL:</p> <p>13 Q Let me just ask you, sir. You probably had</p> <p>14 your knife with you. Is that fair? You had been to</p> <p>15 the range? You had been working?</p> <p>16 MR. GOLDBERG: Objection. Form. Asked and</p> <p>17 answered. You can answer.</p> <p>18 A I probably had it on me.</p> <p>19 Q All right. There you go.</p> <p>20 So you're approaching them, you probably</p> <p>21 have this knife, you're 200 pounds, you're in a black</p>	<p style="text-align: right;">Page 85</p> <p>1 Q Or say once you stopped walking towards</p> <p>2 them?</p> <p>3 A I speak.</p> <p>4 Q Tell me what it was that you said.</p> <p>5 A Hey, guys, how you all doing. How you all</p> <p>6 doing. Hello. I speak.</p> <p>7 Q Anything else?</p> <p>8 A No, just speaking to them.</p> <p>9 Q Yeah, but telling me you spoke to him</p> <p>10 doesn't tell me what you said. When you approached,</p> <p>11 tell me what you said as best as you remember.</p> <p>12 A Hey, guys, how you all doing. I guess, is</p> <p>13 this your property, do you live around here? Meaning,</p> <p>14 I mean, if you say yeah, I live right there. Then I</p> <p>15 know that's the neighbor's house and I go, okay, but</p> <p>16 they weren't so pleasant.</p> <p>17 Q Under the circumstances if a man of your</p> <p>18 description that time in his 40's approached -- do you</p> <p>19 have any kids?</p> <p>20 A Yes.</p> <p>21 Q How old are your kids?</p>

<p style="text-align: right;">Page 90</p> <p>1 A Yes.</p> <p>2 Q Okay. Have you ever told your kids to let</p> <p>3 you know if they're approached by a stranger?</p> <p>4 MR. GOLDBERG: Same objection.</p> <p>5 A So you're saying that these gentlemen were</p> <p>6 of that age not to talk to strangers and that they</p> <p>7 couldn't take it upon themselves, they weren't old</p> <p>8 enough or mature enough, to say whether they lived</p> <p>9 there or not and because my point is this is --</p> <p>10 Q Sir, I'm 48 and I have no intention of</p> <p>11 telling you where I live. There is not an age limit on</p> <p>12 safety as far as I know.</p> <p>13 MR. GOLDBERG: Cary, I've been over this</p> <p>14 twice. Can we please not testify or lecture on the</p> <p>15 record? If you have a question, ask him a question.</p> <p>16 Q Sure. Well, my question, sir, was, have</p> <p>17 you ever told your children not to talk to strangers?</p> <p>18 MR. GOLDBERG: Objection.</p> <p>19 A Yes.</p> <p>20 Q So you approached these two juveniles. You</p> <p>21 said, is this your property, do you live around here.</p>	<p style="text-align: right;">Page 92</p> <p>1 so. And again, fuck you, again.</p> <p>2 Q Okay. And so you said, is this your</p> <p>3 property, do you live around here. They said, fuck</p> <p>4 you. And your response to fuck you was, I don't want</p> <p>5 you guys to get in no trouble. Is that right?</p> <p>6 A Yeah, I was trying to help. Trying to keep</p> <p>7 people from getting in trouble.</p> <p>8 Q And tell me how it is you thought you'd</p> <p>9 help them when you approached with your knife and gun.</p> <p>10 Tell me about that.</p> <p>11 MR. GOLDBERG: Objection. Form. You can</p> <p>12 answer.</p> <p>13 A To keep them from getting the police called</p> <p>14 on them.</p> <p>15 Q Why did you think they were going to get</p> <p>16 the police called on them?</p> <p>17 A To keep them from doing something that they</p> <p>18 would regret.</p> <p>19 Q Why did you think they were going to do</p> <p>20 something they would regret?</p> <p>21 A Just a gut feeling.</p>
<p style="text-align: right;">Page 91</p> <p>1 Tell me what happened next.</p> <p>2 A They started cussing me out.</p> <p>3 Q Okay. And there is no crime in cussing you</p> <p>4 out, is there?</p> <p>5 A No, that's why I walked away.</p> <p>6 Q And tell me exactly what they said and who</p> <p>7 said it.</p> <p>8 A Fuck you, fuck the police. I don't care</p> <p>9 who called the police, fuck you, get the fuck away from</p> <p>10 me, and MF, that manner.</p> <p>11 Q Now, at some point you told them that you</p> <p>12 called the police or that you were the police. Do you</p> <p>13 remember that?</p> <p>14 A That someone might call the police on them.</p> <p>15 Q So let's go back and do this in order.</p> <p>16 When you said, is this your property, do</p> <p>17 you live around here, tell me what their response was</p> <p>18 to that.</p> <p>19 A Fuck you.</p> <p>20 Q And then what did you say?</p> <p>21 A I don't want you guys to get in no trouble,</p>	<p style="text-align: right;">Page 93</p> <p>1 Q Was there anybody else that you could see</p> <p>2 that observed any of this?</p> <p>3 A No. Like I said, no one.</p> <p>4 Q So as far as you know, you were the only</p> <p>5 one that saw these gentlemen out there, right?</p> <p>6 MR. GOLDBERG: Objection. Form. And</p> <p>7 mischaracterizes his testimony to the extent that these</p> <p>8 two were also out there and they are other people of</p> <p>9 each other, so. You can answer, though.</p> <p>10 MR. HANSEL: Other than yourself and the</p> <p>11 two minors, you didn't see anybody else out there, did</p> <p>12 you?</p> <p>13 A Just people walking passed, but in the</p> <p>14 court, no, just us.</p> <p>15 Q Okay. And so when you told them -- and how</p> <p>16 did you put it about the police? You said somebody --</p> <p>17 tell me what you said to them. When you brought up the</p> <p>18 police, tell me what you said.</p> <p>19 A I didn't want nobody to call the police on</p> <p>20 them.</p> <p>21 Q Okay. But the only person interacting with</p>

<p style="text-align: right;">Page 94</p> <p>1 them was you, right?</p> <p>2 A Yes.</p> <p>3 Q So when you said, I don't want anybody to</p> <p>4 call the police on you, you were referring to yourself,</p> <p>5 that you might call the police. Is that right?</p> <p>6 A No.</p> <p>7 Q Well, if nobody else saw them or was</p> <p>8 interacting with them who else would have called the</p> <p>9 police? Who were you referring to?</p> <p>10 A That could have been anybody looking</p> <p>11 outside.</p> <p>12 Q Okay. So you said, I don't want anybody to</p> <p>13 call the police on you. You approached them, is this</p> <p>14 your property, they said, fuck you. You said, I don't</p> <p>15 want anybody to call the police on you. They said,</p> <p>16 fuck you, again, and fuck the police or something like</p> <p>17 that. Is that right?</p> <p>18 A Yes.</p> <p>19 Q Now, did you feel that they were being</p> <p>20 disrespectful?</p> <p>21 A Yes.</p>	<p style="text-align: right;">Page 96</p> <p>1 Q And you had not shown them at that point</p> <p>2 your firearm or your badge; is that correct? The point</p> <p>3 at which we're up to in the story where you turned to</p> <p>4 walk away, you said.</p> <p>5 A No.</p> <p>6 Q Okay. As a police officer you're trained</p> <p>7 to maintain situational awareness. Is that right?</p> <p>8 MR. GOLDBERG: Objection. Form. You can</p> <p>9 answer.</p> <p>10 A Yes, we try.</p> <p>11 Q And part of that is being aware of and</p> <p>12 observing threats and keeping them in your line of</p> <p>13 sight so you can keep yourself safe, right, and your</p> <p>14 fellow officers?</p> <p>15 MR. GOLDBERG: Objection. Form. You can</p> <p>16 answer.</p> <p>17 A Yes, yes.</p> <p>18 Q When you turned to walk away, though, you</p> <p>19 turned your back on these gentlemen. Is that right?</p> <p>20 A Yes.</p> <p>21 Q At that point you determined they were no</p>
<p style="text-align: right;">Page 95</p> <p>1 Q And, in particular, they were disrespecting</p> <p>2 you. Is that right?</p> <p>3 A I was the only one there.</p> <p>4 Q That's why I thought that would be an easy</p> <p>5 question. They were disrespecting you, right?</p> <p>6 A Yes.</p> <p>7 Q Okay. So after they said fuck you and fuck</p> <p>8 the police, what did you say next?</p> <p>9 A Okay. I said, all right. And I left.</p> <p>10 Q Okay. Up until this point had you notified</p> <p>11 them that you were a police officer?</p> <p>12 A No, I was walking away. It wasn't no need.</p> <p>13 It wasn't no need.</p> <p>14 Q Up until this point had you notified them</p> <p>15 that you had a firearm on you?</p> <p>16 A There was no need to.</p> <p>17 Q Well, don't tell me about the need. I just</p> <p>18 need to make sure you didn't tell them up to this point</p> <p>19 that you had a firearm. The point where you say you</p> <p>20 were walking away.</p> <p>21 A No.</p>	<p style="text-align: right;">Page 97</p> <p>1 threat or you wouldn't have turned and turned your back</p> <p>2 on them knowing one had a knife in his pocket, right?</p> <p>3 A Yes, I was leaving them alone. Giving them</p> <p>4 what they wanted.</p> <p>5 Q Right, but you had determined in your mind</p> <p>6 they were no threat at that point, correct?</p> <p>7 A No, no. There is still a possibility.</p> <p>8 They still could do something, even if I turned my</p> <p>9 back, but I just was giving them what they wanted. I</p> <p>10 walked away.</p> <p>11 Q You had determined they were safe enough to</p> <p>12 turn your back on, obviously, right?</p> <p>13 A I walked away.</p> <p>14 Q But that's not the question, sir.</p> <p>15 As part of your analysis in your</p> <p>16 situational awareness and your training to observe and</p> <p>17 keep yourself safe, before you turned your back you had</p> <p>18 determined it was safe enough to do so, to turn your</p> <p>19 back, right?</p> <p>20 MR. GOLDBERG: Objection to form, but you</p> <p>21 can answer.</p>

<p style="text-align: right;">Page 98</p> <p>1 A I felt as though that I was far enough away</p> <p>2 from them where I could walk away and turn my back.</p> <p>3 Q So you turned your back, you walked away.</p> <p>4 How many steps did you take before</p> <p>5 something else happened?</p> <p>6 A I don't remember. It was a few steps</p> <p>7 because I was walking.</p> <p>8 Q Which direction were you headed? To your</p> <p>9 car, your parking pad, your front door, somewhere else?</p> <p>10 A To the house.</p> <p>11 Q And tell me what happened next.</p> <p>12 A I heard footsteps behind me really, really</p> <p>13 fast, doing some talking, so I turned and he was</p> <p>14 walking towards me.</p> <p>15 Q Who is he?</p> <p>16 A I don't know his name. The other.</p> <p>17 Q Not Mr. Nicholson?</p> <p>18 A Not Mr. Nicholson.</p> <p>19 Q All right. When you turned back around to</p> <p>20 see the two minors, one was walking towards you, but</p> <p>21 Mr. Nicholson was staying where he was; is that</p>	<p style="text-align: right;">Page 100</p> <p>1 towards you. Do you recall his name? The one walking</p> <p>2 towards you?</p> <p>3 A The other gentleman that's not here.</p> <p>4 Q Let's call him not Mr. Nicholson. Is that</p> <p>5 fair?</p> <p>6 A Not Mr. Nicholson.</p> <p>7 Q All right. Got it. And tell me what</p> <p>8 happened next.</p> <p>9 A I reacted to the threat. I felt</p> <p>10 threatened. Them walking up behind me when I was</p> <p>11 leaving them alone. I dropped my bag, reached for my</p> <p>12 gun because I knew if I got in a fight it was going to</p> <p>13 fall out and if one of them were to grab it, it</p> <p>14 wouldn't have been how I hoped it would turn out.</p> <p>15 So it was still in the holster. I pointed</p> <p>16 it at the ground. Kind of saying, look, you don't want</p> <p>17 to do this, go ahead and leave. That was about it.</p> <p>18 They walked off.</p> <p>19 Q So, all right, let's break that down a</p> <p>20 little bit.</p> <p>21 The holster is designed to stay in the</p>
<p style="text-align: right;">Page 99</p> <p>1 correct?</p> <p>2 A He was behind the other guy, yes.</p> <p>3 Q But staying where he was. Where you left</p> <p>4 him.</p> <p>5 A I don't remember. He was behind him,</p> <p>6 though. I don't know if it's where I left him, but he</p> <p>7 was behind him.</p> <p>8 Q Okay. When you say you don't remember, you</p> <p>9 don't have any memory of Mr. Nicholson also moving</p> <p>10 towards you when you turned around; is that correct?</p> <p>11 A Yeah, I don't.</p> <p>12 Q Okay. And you said you heard some talking.</p> <p>13 What were they saying, if you remember?</p> <p>14 A I heard them cussing at me and walking up</p> <p>15 towards me really, really fast.</p> <p>16 Q Well, just one of them, right?</p> <p>17 MR. GOLDBERG: Objection to form. You can</p> <p>18 answer.</p> <p>19 A One of them was close to me.</p> <p>20 Q Okay. So you turned around, you turned</p> <p>21 around and you saw one of the two minors walking</p>	<p style="text-align: right;">Page 101</p> <p>1 pocket when you pull the gun out. Is that right?</p> <p>2 That's the theory of it. That's how it's supposed to</p> <p>3 work?</p> <p>4 MR. GOLDBERG: Objection. Form. You can</p> <p>5 answer.</p> <p>6 A I grabbed the gun and the holster. I never</p> <p>7 pulled the gun out of the holster.</p> <p>8 Q Okay. Is the trigger guard covered by the</p> <p>9 holster?</p> <p>10 A Yes.</p> <p>11 Q So you pulled the gun out and it still had</p> <p>12 this holster around it. Is that right?</p> <p>13 A Yes.</p> <p>14 Q All right. You certainly agree with me</p> <p>15 that if the gun had fired the holster would not contain</p> <p>16 the bullet?</p> <p>17 A Yes.</p> <p>18 Q Okay. And when you removed your gun from</p> <p>19 your hoodie pocket what did you say?</p> <p>20 A You don't want to do this. I told that one</p> <p>21 guy I was the police and he just stood there and looked</p>

<p style="text-align: right;">Page 102</p> <p>1 at me. I said, you don't want to do this. You don't</p> <p>2 want to do this. And he just looked at me. He just</p> <p>3 stopped and looked at me, looked at my hand, looked at</p> <p>4 me. And then I guess Mr. Nicholson persuaded him to</p> <p>5 leave.</p> <p>6 Q So you said, you don't want to do this, I'm</p> <p>7 the police. Is that right?</p> <p>8 A Yeah.</p> <p>9 Q Okay. Did you raise your voice?</p> <p>10 A No.</p> <p>11 Q Just in a normal tone?</p> <p>12 A Yes.</p> <p>13 Q And you said Mr. Nicholson persuaded him to</p> <p>14 leave. Tell me what Mr. Nicholson said.</p> <p>15 A Come on, man, let's go. That's about all I</p> <p>16 remember.</p> <p>17 Q All right. And did the two, in fact, leave</p> <p>18 or if they did something different each, tell me. What</p> <p>19 did they do after Mr. Nicholson said, come on, man,</p> <p>20 let's go?</p> <p>21 A Mr. Nicholson, he left first and then the</p>	<p style="text-align: right;">Page 104</p> <p>1 A Like, next to each other? Beside each</p> <p>2 other?</p> <p>3 Q No, sir. Across from each other where they</p> <p>4 would be backing towards each other.</p> <p>5 Is the court two car lengths long or wide</p> <p>6 is what I'm trying to ask? Let's do it another way.</p> <p>7 Let's do it another way. I'll try to make it easier.</p> <p>8 How far across is the court in the</p> <p>9 direction you were walking?</p> <p>10 A How far across is the court. What court?</p> <p>11 The court that I live in?</p> <p>12 Q Yes, sir, yeah. The little paved area</p> <p>13 there. How wide is it? The whole paved area?</p> <p>14 A It's pretty big. It has a tree in the</p> <p>15 middle, so, cars can back out. It's enough room for</p> <p>16 cars to park in the middle with the tree for other cars</p> <p>17 to back out. So, yes, it's pretty big.</p> <p>18 Q Do you have an estimate in feet?</p> <p>19 A No, I don't know.</p> <p>20 Q You were on the same side of the tree as</p> <p>21 the young man when you pulled your gun, right?</p>
<p style="text-align: right;">Page 103</p> <p>1 other guy left behind him.</p> <p>2 Q And when you pulled the gun out of your</p> <p>3 hoodie pocket how far away were you from Mr. Nicholson?</p> <p>4 MR. GOLDBERG: Objection. Form. Asked and</p> <p>5 answered, but you can answer.</p> <p>6 A Yeah, I don't remember that.</p> <p>7 Q You were still in the little cul de sac</p> <p>8 area, right? What do you call it? A court? You were</p> <p>9 still in the same court, right?</p> <p>10 A Yeah, we were still in the same court.</p> <p>11 Q And that court is small enough that two</p> <p>12 cars parked across from each other can't both back out</p> <p>13 at the same time, right?</p> <p>14 A I'm not sure what you're asking.</p> <p>15 Q Well, two cars on opposite parking pads</p> <p>16 can't both back out at the same time. There's not</p> <p>17 enough room. I'm trying to understand the size. Is</p> <p>18 that right?</p> <p>19 A I mean, two cars could back out at once.</p> <p>20 Q That are right across each other? It's big</p> <p>21 enough?</p>	<p style="text-align: right;">Page 105</p> <p>1 A Yeah.</p> <p>2 THE WITNESS: I'm sorry, I apologize. Can</p> <p>3 we take two minutes? I have to take a phone call.</p> <p>4 MR. HANSEL: Sure. Let's take make it, so</p> <p>5 I've got --</p> <p>6 MR. GOLDBERG: How long is the call?</p> <p>7 MR. HANSEL: Let's make it seven minutes.</p> <p>8 I've got 53. Let's come back at 1. Is that enough</p> <p>9 time, sir?</p> <p>10 THE WITNESS: Is that good?</p> <p>11 MR. HANSEL: If it works for you.</p> <p>12 THE WITNESS: Yeah, I just need, like,</p> <p>13 three minutes.</p> <p>14 MR. GOLDBERG: That's fine.</p> <p>15 MR. HANSEL: Let's come back at 1. We'll</p> <p>16 go off the record until 1.</p> <p>17 (There was a brief recess taken.)</p> <p>18 BY MR. HANSEL:</p> <p>19 Q So you mentioned the young man approaches</p> <p>20 you, you pull out your gun. It's still in the holster,</p> <p>21 you said. Is that right, sir? Is that a yes?</p>